

To facilitate the transfer of Spearfish Hydroelectric Plant Number 1 to the city of Spearfish, South Dakota, and for other purposes.

JUNE 8, 2006

MS. HERSETH introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

To facilitate the transfer of Spearfish Hydroelectric Plant Number 1 to the city of Spearfish, South Dakota, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. FINDINGS.

4 Congress finds that—

5 (1) Spearfish Hydroelectric Plant Number 1—

6 (A) operates under a right-of-way grant

7 administered by the Forest Service; and

1 (B) is not subject to the jurisdiction of the
2 Federal Energy Regulatory Commission;

3 (2) the transfer of the Plant from the
4 Homestake Mining Company to the city of Spear-
5 fish, South Dakota—

6 (A) would maintain the historic benefits of
7 the Plant; and

8 (B) would not—

9 (i) affect the validity of the right-of-
10 way grant; or

11 (ii) subject the Plant to the jurisdic-
12 tion of the Commission; and

13 (3) it is in the public interest for the Plant to
14 continue to operate in a manner that protects and
15 improves—

16 (A) fish hatchery operations;

17 (B) recreation;

18 (C) historical interpretation;

19 (D) irrigation;

20 (E) hydroelectric power generation; and

21 (F) the aesthetic value of Spearfish City
22 Park.

23 **SEC. 2. DEFINITIONS.**

24 In this Act:

1 (1) COMMISSION.—The term “Commission”
2 means the Federal Energy Regulatory Commission.

3 (2) PLANT.—The term “Plant” means the
4 Spearfish Hydroelectric Plant Number 1 that—

5 (A) is located in Lawrence County, South
6 Dakota;

7 (B) operates in accordance with a valid
8 right-of-way grant—

9 (i) issued by the General Land Office
10 of the Department of the Interior in 1909;
11 and

12 (ii) administered by the Forest Serv-
13 ice as of the date of enactment of this Act;
14 and

15 (C) is described in Commission docket
16 number UL00–3.

17 (3) SECRETARY.—The term “Secretary” means
18 the Secretary of the Interior.

19 **SEC. 3. EXEMPTION OF THE PLANT FROM COMMISSION JU-**
20 **RISDICTION.**

21 Part I of the Federal Power Act (16 U.S.C. 791a
22 et seq.) shall not apply to the Plant until and unless other-
23 wise provided by Congress.

1 **SEC. 4. STUDY OF SPEARFISH CREEK HYDROLOGY.**

2 (a) IN GENERAL.—The Secretary, acting through the
3 United States Geological Survey, shall carry out a study
4 of the hydrology of Spearfish Creek, South Dakota.

5 (b) AUTHORIZATION OF APPROPRIATIONS.—There is
6 authorized to be appropriated to the Secretary to carry
7 out the study under subsection (a) \$250,000 for each of
8 fiscal years 2006 through 2009.

9 **SEC. 5. SENSE OF CONGRESS.**

10 It is the sense of Congress that the city of Spearfish,
11 South Dakota, to provide for the restoration and improve-
12 ment of Spearfish Creek, should—

13 (1) uphold the Memorandum Agreement of the
14 city of Spearfish and the Spearfish Canyon Land-
15 owners Association, dated September 14, 2004; and

16 (2) take action to release additional water flow
17 of approximately 5 to 10 cubic feet per second be-
18 tween the Maurice Intake Dam and the Spearfish
19 Diversion.

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